

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
CLERK

2:33 pm, Mar 08, 2017

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE
ORDER
15-CV-5974(ADS)(ARL)

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TRUSTEES OF EMPIRE STATE CARPENTERS ANNUITY,
APPRENTICESHIP, LABOR-MANAGEMENT COOPERATION,
PENSION and WELFARE FUNDS,

Plaintiffs,

-against-

ROCHESTER CUSTOM MILLWORK LLC and MONROE
MILLWORK, INC.,

Defendants.
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APPEARANCES:

Virginia & Ambinder LLP

Attorneys for the Plaintiffs

40 Broad Street, 7th Floor

New York, NY 10004

By: Adam A. Biggs, Esq., Of Counsel

NO APPEARANCES:

Rochester Custom Millwork LLC

Defendant

Monroe Millwork, Inc.

Defendant

SPATT, District Judge:

On October 16, 2015, the Plaintiffs, the Trustees of the Empire State Carpenters Annuity, Apprenticeship, Labor-Management Cooperation, Pension and Welfare Funds, commenced this action against the Defendant Rochester Custom Millwork Inc., and an entity called Monroe Custom Millwork, Inc., pursuant to Sections 502 and 515 of the Employee Retirement Income Security Act of 1974 and Section 301 of the Labor Management Relations Act of 1947.

On October 20, 2015, the Plaintiffs filed an amended complaint, which substituted the Defendant Monroe Millwork, Inc. for Monroe Custom Millwork, Inc., but otherwise repeated the substantive allegations as set forth in the original complaint. In particular, the Plaintiffs – who are

the trustees of multiemployer labor-management trust funds – seek to recover allegedly delinquent contributions that the Defendants were obligated to make pursuant to the terms of a collective bargaining agreement, together with associated damages under the relevant statutes, including interest, liquidated damages, attorneys’ fees, and costs.

On November 23, 2015, the Clerk of the Court noted the Defendants’ default.

On May 3, 2016, the Plaintiffs filed a motion for a default judgment, which this Court referred to United States Magistrate Judge Arlene R. Lindsay.

On February 18, 2017, Judge Lindsay issued a Report and Recommendation (“R&R”), recommending that the motion for a default judgment be granted, and that damages be awarded to the Plaintiffs as follows: \$60,817.04 in unpaid contributions by Rochester Custom Millwork LLC; \$3,829.46 in unpaid contributions by Monroe Millwork, Inc.; \$10,042.30 in accrued prejudgment interest on the unpaid contributions through May 1, 2015; \$12,929.30 in liquidated damages; \$3,825 in audit fees; \$6,012.50 in attorneys’ fees; and \$559.02 in costs, for a total damages award of \$98,014.62, plus continuing prejudgment interest accruing from May 1, 2015 to the date judgment is entered.

On February 21, 2017, the Plaintiffs filed proof of service of the R&R on the Defendants.

More than fourteen days have elapsed since service of the R&R, and the Defendants have neither filed an objection nor requested an extension of time to do so. Therefore, pursuant to 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72, this Court has reviewed the R&R for clear error, and finding none, now concurs in both its reasoning and its result.

Accordingly, the February 18, 2017 Report and Recommendation is adopted in its entirety, and the Plaintiffs’ motion seeking the entry of a default judgment is granted.

The Clerk of the Court is respectfully directed to enter judgment in accordance with this Order, and to close this case.

It is **SO ORDERED**:

Dated: Central Islip, New York
March 8, 2017

/s/ Arthur D. Spatt

ARTHUR D. SPATT

United States District Judge